

Senate Bill No. 1002

Passed the Senate September 12, 2007

Secretary of the Senate

Passed the Assembly September 11, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Division 33 (commencing with Section 83000) to the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1002, Perata. Water quality, flood control, water storage, and wildlife preservation.

(1) Under existing law, various bond acts have been approved by the voters to provide funds for water projects, facilities, and programs. The Disaster Preparedness and Flood Prevention Bond Act of 2006, a bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$5,388,000,000 for the purposes of financing a safe drinking water, water quality and supply, flood control, and resource protection program. The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, approved by the voters at the November 5, 2002, statewide general election, authorizes, for the purposes of financing a safe drinking water, water quality, and water reliability program, the issuance of bonds in the amount of \$3,440,000,000.

This bill, with regard to those bond funds, would appropriate \$610,890,000 as follows: of the funds made available pursuant to the Disaster Preparedness and Flood Prevention Bond Act of 2006, \$50,000,000 to the Department of Water Resources for essential emergency preparedness supplies and projects, and \$150,000,000 to the department for stormwater flood management project grants; of the funds made available pursuant to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, \$50,000,000 to the State Department of Public Health for grants and loans for small community drinking

water systems infrastructure improvements and related actions, \$50,400,000 to the State Department of Public Health for grants for projects to prevent or reduce the contamination of groundwater that serves as a source of drinking water, \$40,000,000 to the department for administrative costs, planning grants, and local groundwater assistance grants, \$50,000,000 to the department for projects to relocate existing Sacramento-San Joaquin Delta water intake facilities, \$60,000,000 to the department for expenditures to increase the department's ability to respond to levee breaches and to reduce the potential for levee failure, \$100,000,000 to the department for the acquisition, preservation, protection, and restoration of Sacramento-San Joaquin Delta islands, \$12,000,000 to the department to complete planning and feasibility studies associated with new surface storage under the California Bay-Delta Program, \$15,000,000 to the department for planning and feasibility studies to identify potential options for the reoperation of the state's flood protection and water supply systems, \$10,000,000 to the department to update the California Water Plan, \$10,000,000 to the department for planning and feasibility studies for projects to reduce ecosystem conflicts in the Sacramento-San Joaquin Delta, and \$10,000,000 to the State Coastal Conservancy for projects on the Santa Ana River; and of the funds made available under the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, \$3,490,000 to the department for planning and feasibility studies associated with surface storage under the California Bay-Delta Program.

The bill would provide that up to 5% of the funds appropriated by the bill may be expended to pay for the administrative costs of that program. The bill would provide that funds appropriated by the bill are available for encumbrance until June 30, 2009. On January 10, 2008, program recipients would be required to report to the fiscal committees of the Legislature with regard to the committed and anticipated expenditures of these funds.

(2) Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality.

This bill would require the state board, in consultation with other agencies, to develop pilot projects in the Tulare Lake Basin and the Salinas Valley focused on nitrate contamination. The bill would

require the state board to create an interagency task force, as needed, to oversee the pilot projects and submit a report to the Legislature on the scope and findings of the projects within 2 years of receiving funding. The state board would be required to implement recommendations for developing a groundwater cleanup program for the Central Valley Water Quality Control Region and the Central Coast Water Quality Control Region based upon pilot project results within 2 years of submitting the report to the Legislature.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Division 33 (commencing with Section 83000) is added to the Water Code, to read:

DIVISION 33. INTEGRATED WATER SUPPLY AND
FLOOD PROTECTION PLANNING, DESIGN, AND
IMPLEMENTATION

83000. The Legislature hereby finds and declares all of the following:

(a) Water is vital to the economy, environment, and overall well-being of the state.

(b) California faces increasing challenges in managing its water supply due to climate change, uncertainty regarding the availability of water from the Sacramento-San Joaquin Delta and other sources, an increasing state population, limitations on public funds, and other factors.

(c) California must adopt a new, updated, and comprehensive set of water planning, design, and implementation policies that reflect these realities to protect its water supply future.

(d) In the past, state laws, funding schemes, and administrative actions have treated the planning, construction, and operation of water supply, groundwater, and flood control systems as separate and distinct activities, thereby reducing efficiency and water supply reliability.

(e) California has not taken full advantage of the cost savings, the environmental benefits, or the expediency of more efficient

operations and usage of existing water supply, storage, and flood protection facilities.

(f) It is the policy of the state to more effectively integrate its flood protection systems with its water supply and conveyance systems in order to conserve limited public dollars, increase the available water supply, improve water quality, increase wildlife and ecosystem protections, protect public health and safety, and address the effects of climate change.

(g) The purpose of this division is to require the integration of flood protection and water systems to achieve multiple public benefits, including all of the following:

(1) Increasing water supply reliability in the least costly, most efficient, and most reliable manner to meet current and future state needs.

(2) Increasing use of water use efficiency and water conservation measures to increase and extend existing water supplies.

(3) Reducing energy consumption associated with water transport, thereby reducing state greenhouse gas emissions.

(4) Improving water management to protect and restore ecosystems and wildlife habitat.

83001. In order to provide the least costly, most efficient, and reliable water supply to a growing state, it is the intent of the Legislature that the department accomplish the following objectives:

(a) Integrate state flood protection and water supply systems.

(b) Promote conjunctive use of groundwater storage capacity to improve overall water supply and flood system operation.

(c) Promote increased water use efficiency through expanded use of water conservation, water recycling, and improvements in technology.

83002. The sum of six hundred ten million eight hundred ninety thousand dollars (\$610,890,000) is hereby appropriated as follows:

(a) Of the funds made available pursuant to Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code, the sum of two hundred million dollars (\$200,000,000) is hereby appropriated as follows:

(1) Pursuant to subdivision (c) of Section 5096.821 of the Public Resources Code, the sum of fifty million dollars (\$50,000,000) to the department for the acquisition, design, and construction of essential emergency preparedness supplies and projects. Prior to

the design or construction of any project funded pursuant to this paragraph, the California Bay-Delta Authority, or its successor, shall approve the specific project or program.

(2) Pursuant to Section 5096.827 of the Public Resources Code, the sum of one hundred fifty million dollars (\$150,000,000) to the department for grants for stormwater flood management projects that reduce flood damage and provide other benefits, including groundwater recharge, water quality improvement, and ecosystem restoration. Not less than one hundred million dollars (\$100,000,000) of this amount shall be available for projects that address immediate public health and safety needs, strengthen existing flood control facilities to address seismic safety issues. Twenty million dollars (\$20,000,000) shall be available for local agencies to meet immediate water quality needs related to combined municipal sewer and stormwater systems to prevent sewage discharges into state waters. Twenty million dollars (\$20,000,000) shall be available for stormwater flood protection projects in the northern San Francisco Bay area and Marin County for the purposes of protecting public safety and property from flood events.

(b) Of the funds made available pursuant to Division 43 (commencing with Section 75001) of the Public Resources Code, the sum of four hundred seven million four hundred thousand dollars (\$407,400,000) is hereby appropriated as follows:

(1) Pursuant to Section 75022 of the Public Resources Code, the sum of fifty million dollars (\$50,000,000) to the State Department of Public Health for grants for small community drinking water system infrastructure improvements and related action to meet safe drinking water standards. First priority for these funds shall be given to disadvantaged or severely disadvantaged communities lacking resources to provide safe drinking water to residents. Small community drinking water systems that are dependent on surface water and are under orders from the State Department of Public Health to boil water from existing treatment systems for parasites, viruses, or giardia shall be eligible for grants for drinking water system infrastructure improvements.

(2) Pursuant to Section 75025 of the Public Resources Code, the sum of fifty million four hundred thousand dollars (\$50,400,000) to the State Department of Public Health for grants for projects to prevent or reduce the contamination of groundwater

that serves as a source of drinking water. Funds appropriated by this paragraph shall be available for immediate projects needed to protect public health by preventing or reducing the contamination of groundwater that serves as a major source of drinking water for a community.

(A) The State Department of Public Health shall prioritize project funding based on the following criteria:

(i) The threat posed by groundwater contamination to the affected community's overall drinking water supplies, including the need for the treatment or construction of alternative supplies if groundwater is not available due to contamination.

(ii) The potential for groundwater contamination to spread and reduce drinking water supply and water storage capacity for major population areas.

(iii) The potential of the project, if fully implemented, to enhance local water supply reliability.

(iv) The potential of the project to increase opportunities for groundwater recharge and optimization of groundwater supplies.

(B) The State Department of Public Health shall give additional consideration to projects that meet any of the following criteria:

(i) The project is implemented pursuant to a comprehensive basinwide groundwater quality management and remediation plan or is necessary to develop a comprehensive groundwater plan.

(ii) Affected groundwater provides a local supply that, if contaminated, will require the importation of additional water from the Sacramento-San Joaquin Delta or the Colorado River.

(iii) The project will serve an economically disadvantaged community.

(iv) Multiple contaminants affect more than one-third of the well capacity of a local water system.

(C) Of the funds appropriated by this paragraph, two million dollars (\$2,000,000) shall be allocated to the State Department of Public Health to contract with the State Water Resources Control Board for the purposes of Section 83002.5.

(3) Pursuant to Section 75026 of the Public Resources Code, the sum of forty million dollars (\$40,000,000) to the department for administrative costs, planning grants, and local groundwater assistance grants.

(4) Pursuant to subdivision (d) of Section 75029 of the Public Resources Code, the sum of fifty million dollars (\$50,000,000) to

the department for projects that relocate existing Sacramento-San Joaquin Delta water intake facilities and that meet all of the following criteria:

(A) Have completed documentation required under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and a notice of determination has been filed prior to June 30, 2007.

(B) Have demonstrated multiple benefits in the environmental documentation, including a net benefit to delta pelagic fisheries and drinking water quality improvement.

(C) Are able to complete design and, if the project involves construction, commence construction within the 2007–08 fiscal year.

(D) Have local and federal cost sharing.

(5) Pursuant to Section 75033 of the Public Resources Code, the sum of one hundred sixty million dollars (\$160,000,000) to the department as follows:

(A) Sixty million dollars (\$60,000,000) to increase the department's ability to respond to levee breaches and to reduce the potential for levee failure, including, but not limited to, the following:

(i) Acquisition and positioning of emergency construction materials and equipment.

(ii) Emergency projects to prevent levee failure or repair levees or other flood control facilities to restore conveyance and flood protection.

(iii) Preparation for, and implementation of, a delta emergency operations plan.

(iv) Emergency contracts for activities relating to a flood fight or levee failure to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

(B) One hundred million dollars (\$100,000,000) for the acquisition, preservation, protection, and restoration of Sacramento-San Joaquin Delta islands. Projects shall be selected to improve the stability of the delta levee system, reduce subsidence, and assist in restoring the ecosystem of the delta. Priority shall be given to projects that improve conditions for delta smelt and other native fish. Eligible projects include, but are not limited to, all of the following:

(i) Suisun Marsh tidal marsh restoration.

(ii) Dutch Slough tidal marsh restoration.

(iii) Decker Island restoration.

(iv) Exotic species control.

(6) Pursuant to Chapter 4 (commencing with Section 75041) of Division 43 of the Public Resources Code, the sum of forty-seven million dollars (\$47,000,000) to the department as follows:

(A) (i) Twelve million dollars (\$12,000,000) to complete the planning and feasibility studies associated with new surface storage under the California Bay-Delta Program.

(ii) The planning and feasibility studies shall include the following information:

(I) The identification of specific construction and operation conditions proposed for each surface storage facility, including consideration of climate change, an estimated schedule for the construction and completion of each project funded under Section 75041, and the total costs of constructing each project.

(II) A description of the estimated total costs to construct each project and an allocation of the costs to public and private beneficiaries.

(iii) Any feasibility study conducted by or funded by the state for new surface storage under the California Bay-Delta Program shall evaluate funded projects consistent with all statutory and other legally established requirements for protection of environmental and natural resources, including protections for the McCloud River pursuant to Section 5093.542 of the Public Resources Code.

(iv) The feasibility studies shall be prepared and submitted to the Governor and the Legislature no later than December 31, 2008.

(B) (i) Fifteen million dollars (\$15,000,000) for planning and feasibility studies to identify potential options for the reoperation of the state's flood protection and water supply systems that will optimize the use of existing facilities and groundwater storage capacity.

(ii) The studies shall incorporate appropriate climate change scenarios and be designed to determine the potential to achieve the following objectives:

(I) Integration of flood protection and water supply systems to increase water supply reliability and flood protection, improve water quality, and provide for ecosystem protection and restoration.

(II) Reoperation of existing reservoirs, flood facilities, and other water facilities in conjunction with groundwater storage to improve water supply reliability, flood control, and ecosystem protection and to reduce groundwater overdraft.

(III) Promotion of more effective groundwater management and protection and greater integration of groundwater and surface water resource uses.

(IV) Improvement of existing water conveyance systems to increase water supply reliability, improve water quality, expand flood protection, and protect and restore ecosystems.

(C) Ten million dollars (\$10,000,000) to update the California Water Plan, including evaluation of climate change impacts, the development of strategies to adapt to climate change impacts, and the identification of strategies to reduce greenhouse gas emissions related to the storage, conveyance, and distribution of water.

(D) Ten million dollars (\$10,000,000) for planning and feasibility studies for projects to reduce ecosystem conflicts in the Sacramento-San Joaquin Delta. The department shall commence these studies by January 1, 2008.

(7) Of the funds made available pursuant to subdivision (i) of Section 75050 of the Public Resources Code ten million dollars (\$10,000,000) is appropriated to the State Coastal Conservancy for projects on the Santa Ana River.

(c) Of the funds made available pursuant to subdivision (a) of Section 79550 of the Public Resources Code, the sum of three million four hundred ninety thousand dollars (\$3,490,000) is hereby appropriated to the department for planning and feasibility studies associated with surface storage under the California Bay-Delta Program.

83002.5. To improve understanding of the causes of groundwater contamination, identify potential solutions and funding sources to clean up or treat groundwater, and ensure the provision of safe drinking water to all communities, the State Water Resources Control Board, in consultation with other agencies as specified in this section, shall develop pilot projects in the Tulare Lake Basin and the Salinas Valley that focus on nitrate contamination and do all of the following:

(a) (1) In collaboration with relevant agencies and utilizing existing data, including groundwater ambient monitoring and

assessment results along with the collection of new information as needed, do all of the following:

(A) Identify sources, by category of discharger, of groundwater contamination due to nitrates in the pilot project basins.

(B) Estimate proportionate contributions to groundwater contamination by source and category of discharger.

(C) Identify and analyze options within the board's current authority to reduce current nitrate levels and prevent continuing nitrate contamination of these basins and estimate the costs associated with exercising existing authority.

(2) In collaboration with the State Department of Public Health, do all of the following:

(A) Identify methods and costs associated with the treatment of nitrate contaminated groundwater for use as drinking water.

(B) Identify methods and costs to provide an alternative water supply to groundwater reliant communities in each pilot project basin.

(3) Identify all potential funding sources to provide resources for the cleanup of nitrates, groundwater treatment for nitrates, and the provision of alternative drinking water supply, including, but not limited to, state bond funding, federal funds, water rates, and fees or fines on polluters.

(4) Develop recommendations for developing a groundwater cleanup program for the Central Valley Water Quality Control Region and the Central Coast Water Quality Control Region based upon pilot project results.

(b) Create an interagency task force, as needed, to oversee the pilot projects and develop recommendations for the Legislature. The interagency task force may include the board, the State Department of Public Health, the Department of Toxic Substances Control, the California Environmental Protection Agency, the Department of Water Resources, local public health officials, the Department of Food and Agriculture, and the Department of Pesticide Regulation.

(c) Submit a report to the Legislature on the scope and findings of the pilot projects, including recommendations, within two years of receiving funding.

(d) Implement recommendations in the Central Coast Water Quality Control Region and the Central Valley Water Quality Control Region pursuant to paragraph (4) of subdivision (a) within

two years of submitting the report described in subdivision (c) to the Legislature.

83002.6. Up to 5 percent of the funds appropriated by this division may be expended to pay the costs incurred in the administration of that program.

83002.7. Funds appropriated by this division shall only be available for encumbrance until June 30, 2009. On January 10, 2008, any program that is the recipient of an appropriation made by this division shall report to the fiscal committees of the Legislature on the details of all committed and anticipated expenditures of these funds. The report shall include all of the following information:

(a) Fiscal detail of state operations support and local assistance costs.

(b) A general description of the project and the project funding made available by an appropriation in the annual Budget Act for the 2007–08 fiscal year or proposed to be made available in the annual Budget Act for the 2008–09 fiscal year.

(c) A description of the manner in which funds have been expended and a plan for the future expenditure of funds.

(d) An anticipated timeframe for the full expenditure of the appropriation.

(e) An anticipated timeframe for the full completion of the designated project.

(f) The amount of total matching project funding that is being provided by an entity other than the state.

83003. The Legislature further finds and declares the following:

(a) At the November 7, 2006, statewide general election, the voters approved nine billion five hundred thousand dollars (\$9,000,500,000) in general obligation bonding authority to improve flood protection, water supply reliability, water quality, fish and wildlife, parks and open space, and other natural resources. This is in addition to the eleven billion one hundred thousand dollars (\$11,000,100,000) previously authorized by the voters since 1996 for similar uses.

(b) The Legislative Analyst reports that at the end of the 2006–07 fiscal year, more than one billion two hundred thousand dollars (\$1,000,200,000) of the previously authorized eleven billion one hundred thousand dollars (\$11,000,100,000) will not have been appropriated or otherwise committed for voter-approved uses.

(c) The proceeds of bonds approved by the voters of the state for water and natural resources should be appropriated and expended for those uses, as directed by the voters.

Approved _____, 2007

Governor